

Inspector General

United States
Department of Defense



Defense Emergency Response Fund

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Acronyms

DERF	Defense Emergency Response Fund
DFAS	Defense Finance and Accounting Service
DLA	Defense Logistics Agency
DSCA	Defense Security Cooperation Agency
DoS	Department of State
FMR	Financial Management Regulation
OGC	Office of General Counsel
OHDACA	Overseas Humanitarian, Disaster, and Civic Aid
SECDEF	Secretary of Defense
USD(C)/CFO	Under Secretary of Defense (Comptroller)/Chief Financial Officer
USTRANSCOM	United States Transportation Command
WHS	Washington Headquarters Services



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
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ARLINGTON, VIRGINIA 22202-4704

June 20, 2008

MEMORANDUM FOR UNDER SECRETARY OF DEFENSE (POLICY)
UNDER SECRETARY OF DEFENSE (COMPTROLLER)/
CHIEF FINANCIAL OFFICER
ASSISTANT SECRETARY OF DEFENSE FOR HOMELAND
DEFENSE AND AMERICA'S SECURITY AFFAIRS
DIRECTOR, DEFENSE FINANCE AND ACCOUNTING
SERVICE

SUBJECT: Report on the Defense Emergency Response Fund
(Report No. D-2008-105)

We are providing this report for your information and use. We considered management comments on a draft of this report in preparing the final report.

Comments on a draft of this report conformed to the requirements of DoD Directive 7650.3 and left no unresolved issues. Therefore, no additional comments are required. As a result of management comments, we revised Recommendation 3 to clarify our intentions.

We appreciate the courtesies extended to the staff. Questions should be directed to Ms. Lorin T. Pfeil at (703) 601-5945 or Mr. Henry Y. Adu at (703) 601-5893. See Appendix B for the report distribution. Team members are listed inside the back cover.

A handwritten signature in cursive script, reading "Patricia A. Marsh", is positioned above the printed name.

Patricia A. Marsh, CPA
Assistant Inspector General
for Defense Financial Auditing Service

Department of Defense Office of Inspector General

Report No. D-2008-105

June 20, 2008

(Project No. D2007-D000FE-0105.000)

Defense Emergency Response Fund

Executive Summary

Who Should Read This Report and Why? DoD Military and civilian personnel who manage and account for DoD assistance to civil authorities in disaster and humanitarian-related emergencies should read this report. It discusses the use of DoD emergency funds to finance DoD-assisted relief efforts in declared emergencies.

Background. Under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 106-390, October 30, 2000, DoD may be required to provide assistance to Federal agencies and state and local governments in response to major disasters or states of emergency declared by the President. It is also DoD policy to participate in foreign disaster relief operations after the Department of State determines that foreign disaster relief should be provided. In FY 1990, Congress established the Defense Emergency Response Fund (DERF) to reimburse DoD for providing disaster or emergency assistance to other Federal agencies and to state and local governments in anticipation of reimbursable requests. The Treasury index symbol for the DERF is 97X4965 and was initially funded at \$100 million. The purpose of DERF is to allow DoD to provide disaster and emergency relief assistance without depleting the funds it needs to accomplish its mission. In FY 1994, Congress provided an additional \$299.3 million to DERF specifically to provide emergency relief for Rwanda and for emergency migrant processing and safe-haven costs in or around Cuba.

Results. This audit was to determine whether DERF was used for its intended purposes and is sufficiently funded to allow DoD to continue providing disaster assistance around the world. DoD Components properly used DERF for disaster and humanitarian assistance. However, DoD treated DERF as a direct fund cite account instead of as a reimbursable account, as required by Public Law 101-165. In addition, based on our review of Defense Finance and Accounting Service reports, we believe that DERF was not reimbursed by the Department of State for 11 overseas projects performed by DoD. Because DERF was not used as a reimbursable account, the DoD Components have about \$12.1 million in DERF direct obligation authority that has remained unobligated for more than 10 years and should be returned to the Under Secretary of Defense (Comptroller)/Chief Financial Officer. The Components also have an additional \$3.3 million in funds that have been classified as unpaid obligations for more than 10 years. This money should be deobligated and returned to the Under Secretary of Defense (Comptroller)/Chief Financial Officer. Further, after comparing the current account balance with its initial funding, we believe that DERF is not sufficiently funded to meet increasing DoD involvement in disaster relief efforts. Implementing the recommendations would allow DoD to streamline accounting for DERF. (See the Finding section of the report for detailed recommendations.)

Management Comments and Audit Response. The Under Secretary of Defense (Comptroller)/Chief Financial Officer agreed with Recommendation 1.a., and 1.b. and partially concurred with Recommendations 2 and 3. The Assistant Secretary of Defense for Homeland Defense and America's Security Affairs did not provide us with direct comments on the recommendations of this report. Personnel from the Office of the Assistant Secretary of Defense for Homeland and America's Security Affairs told us that they coordinated their response with the Office of the Under Secretary of Defense (Comptroller)/Chief Financial Officer. We confirmed the statement with personnel of the Office of the Under Secretary of Defense (Comptroller)/Chief Financial Officer who told us that they considered those comments in preparing the comments they provided to us. We therefore consider the Under Secretary of Defense (Comptroller)/Chief Financial Officer comments to be inclusive of the Assistant Secretary of Defense for Homeland Defense and America's Security Affairs comments. No additional comments are required from the Assistant Secretary of Defense for Homeland Defense and America's Security Affairs. As a result of management comments, we revised Recommendation 3 to clarify our intentions. See the Finding section of the report for a discussion of management comments and the Management Comments section of the report for the complete text of the comments.

Table of Contents

Executive Summary	i
Background	1
Objective	3
Finding	
Accounting for DERF Reimbursable Expenditures	4
Appendixes	
A. Scope and Methodology	17
Prior Coverage	19
B. Report Distribution	20
Management Comments	
Under Secretary of Defense (Comptroller)/Chief Financial Officer	23

Background

Under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 106-390, October 30, 2000, (the Stafford Act), DoD may be required to provide assistance to Federal agencies and state and local governments in response to major disasters or states of emergency declared by the President. It is also DoD policy to participate in foreign disaster relief operations after the Department of State (DoS) determines that foreign disaster relief should be provided. In FY 1990, Congress established the Defense Emergency Response Fund (DERF) to reimburse DoD for providing disaster or emergency assistance to other Federal agencies and to state and local governments in anticipation of reimbursable requests. The Treasury index symbol for this DERF appropriation is 97X4965. The purpose of DERF is to allow DoD to provide disaster relief assistance without depleting the funds it needs to accomplish its mission. DERF centralized DoD financial accounting for the disaster assistance it provides and was first used in 1991 for disaster relief in Bangladesh. In 1994, DERF was used for refugee assistance in Rwanda, Cuba and Haiti, and for humanitarian assistance on 9 other overseas projects. In 2006, DERF was used to provide assistance to the earthquake victims in Pakistan.

Public Law 101-165. Public Law 101-165, DoD Appropriations Act of 1990, November 21, 1989, established DERF to allow DoD Components to provide disaster relief assistance to other Federal agencies and to state and local governments in anticipation of a reimbursable request for assistance. DERF was initially funded at \$100 million. Under the law, DERF may be used when the Secretary of Defense (SECDEF) determines that the need for DoD immediate assistance is too urgent to wait for a formal reimbursable request for assistance.

Public Law 103-139. Public Law 103-139, DoD Appropriations Act of 1994, November 11, 1993, amended Public Law 101-165 and stated that when the SECDEF determines that immediate DoD assistance is necessary, DERF, in addition to other funds available, may be used for DoD expenses incurred in responding to disasters.

Public Law 103-335. Public Law 103-335, DoD Appropriations Act of 1995, September 30, 1994, provided a supplemental appropriation of \$299.3 million to DERF to reimburse DoD for FY 1994 costs incurred for emergency relief to Rwanda and for emergency migrant processing and safe-haven costs in and around Cuba. After October 7, 1994, the funds could not be used to provide assistance in and around Rwanda, “except for any action that is necessary to protect the lives of United States citizens.”

Accounting Criteria for DERF

The following DoD policies provide guidance on the use of DoD resources to provide disaster and humanitarian relief assistance to civil authorities and on the administrative control of DERF to finance the assistance from DoD.

DoD Directive 5100.46. DoD Directive 5100.46, “Foreign Disaster Relief,” December 4, 1975, provides policy for the use of DoD resources in foreign disaster relief operations and assigns responsibilities for carrying out the policy. According to the directive, DoD Components will participate in foreign disaster relief operations after DoS has made a determination that foreign disaster relief should be provided. DoS will then ask DoD to provide the assistance needed. The directive requires the DoD Assistant Secretary of Defense (International Security Affairs) to designate a DoD Coordinator for Foreign Disaster Relief, who serves as the DoD point of contact with DoS and coordinates DoD matters relating to foreign disaster relief operations. The directive also requires DoD Components to prepare bills and vouchers for reimbursement and provide them to the DoD Coordinator for Foreign Disaster Relief, who will forward them to DoS for payment.

DoD Directive 3025.1. DoD Directive 3025.1, “Military Support to Civil Authorities,” January 15, 1993, assigns responsibilities and provides policy by which DoD responses to major disasters and emergencies in accordance with the Stafford Act. The directive requires DoD Components to comply with legal and accounting requirements when using DoD resources to support civil authorities so as to ensure cost reimbursement under the Stafford Act, Public Law 101-165, or other applicable laws. The directive also requires the Under Secretary of Defense (Comptroller)/Chief Financial Officer (USD[C]/CFO), in conjunction with the DoD executive agent, to provide accounting and other procedures necessary to manage DoD expenditures for the relief efforts using DERF.

DoD Manual 3025.1-M. DoD 3025.1-M, “Manual for Civil Emergencies,” June 1994, provides additional guidance for DoD funding, accounting, and reimbursements for disaster relief efforts using DERF. According to the manual, “the DoD Office of the Deputy Comptroller (Program and Budget) controls the use of the fund.” The Deputy Comptroller (Program and Budget) is also responsible for preparing and issuing funding authorizations from DERF. According to the manual, after the amendment of DERF by Public Law 103-139, the SECDEF made a determination that DERF funds not to exceed \$50 million may be used for foreign disaster assistance, and the remainder of the funds are to be used for domestic disaster and civil emergency assistance. In addition, foreign disaster relief operations are to be administered by the office of the Under Secretary of Defense (Policy). The manual also requires DoD Components to use their own resources first and then bill DERF for reimbursement.

DoD Financial Management Regulation. The DoD Financial Management Regulation (FMR) establishes DoD accounting policies and provides guidance for the management of DERF.

DoD FMR volume 1, chapter 9, “Financial Records Retention,” June 1999, section 090201, requires DoD Components to maintain all financial records (except for those supporting settlement vouchers for official travel) for a minimum period of 6 years and 3 months.

DoD FMR volume 3, chapter 8, “Standards for Recording and Reviewing Commitments and Obligations,” September 2000, section 0804, requires DoD

Components to perform a quarterly review of all commitments and obligations of funds for timeliness, accuracy, and completeness. Chapter 10, “Accounting Requirements for Expired and Canceled Accounts,” states that for appropriations that are available for an indefinite period, obligated and unobligated balances in such appropriations should be canceled when no disbursements have been made for a period of 2 years and when the President, the SECDEF or his designee determines that the purpose for which the appropriation was made available has been carried out.

DoD FMR volume 12, chapter 6, “Defense Emergency Response Fund,” September 1996, establishes DoD policy and procedures that govern the use of DERF. DERF was established to provide obligation authority to DoD Components “upon a determination by the SECDEF that immediate action is necessary in response to a natural or manmade disaster; and in anticipation of reimbursable orders from other Federal departments and agencies and from state and local governments.” The DoD FMR requires the DoD executive agent to commit funds from the DERF in anticipation of reimbursement to the fund. The DoD executive agent then issues task orders to DoD Components, who will obligate their own funds for the task, perform the task, and bill the DERF for costs incurred. The Components are required to maintain requests for reimbursement and supporting documentation for a period of 6 years and 3 months. The Defense Finance and Accounting Service (DFAS) then pays the performing DoD Components from DERF and requests reimbursement from the benefiting agency. The DoD executive agent is required to inform the Deputy Comptroller (Program/Budget) of the need for additional appropriation, if necessary, to sustain DERF.

DoD FMR volume 12, chapter 23 “Contingency Operations,” September 2005, establishes financial policy and procedures for DoD contingency operations, including major humanitarian assistance and international disaster relief efforts. According to this chapter, the Under Secretary of Defense (Policy) is responsible for the management of DoD humanitarian and international disaster relief operations. The USD(C)/CFO is responsible for overall financial policy of the humanitarian and international disaster relief efforts and is also responsible for pursuing prompt reimbursement from those requesting DoD assistance. DFAS is responsible for consolidating billings and transmitting them to the requesting organizations for payment.

Objective

Our overall audit objective was to determine whether DERF was used for its intended purposes and is adequately funded to respond to national disasters. See Appendix A for a discussion of the scope and methodology of our review and prior coverage related to the objective.

Accounting For DERF Reimbursable Expenditures

DoD Components used the Defense Emergency Response Fund (DERF) to provide disaster relief and emergency assistance around the world. However, DERF was not used as a reimbursable account because the Under Secretary of Defense (Comptroller)/Chief Financial Officer gave the DoD Components direct obligation authority to DERF, instead of having the Components first use their own resources and then bill DERF for reimbursement. Because Under Secretary of Defense (Comptroller)/Chief Financial Officer gave them direct obligation authority, the Components:

- have about \$15.4 million in DERF obligation authority that has remained unobligated or been classified as unpaid obligations for more than 10 years that should be returned to the Under Secretary of Defense (Comptroller)/Chief Financial Officer,
- used about \$78.7 million for overseas disaster and humanitarian assistance and did not bill the Department of State for reimbursement (in 2006, one Component also used an additional \$6 million for another overseas disaster assistance on a nonreimbursable basis for the Department of State), and
- improperly used \$136.5 million of funds that Public Law 103-335 provided for emergency relief efforts in Rwanda and for emergency migrant processing and safe-haven costs in and around Cuba for other DERF-funded projects.

In addition, based on the current account balance of \$15.3 million, DERF is not sufficiently funded to meet increasing DoD involvement in manmade and natural disaster relief efforts.

DERF-Funded Projects

Our review indicates that DoD Components overwhelmingly used DERF for its intended purposes. Table 1 shows the amounts that were expended for disaster and humanitarian assistance projects, based on our review and analysis of the DFAS 1002 report.

We were unable to determine whether the amounts expended were all related to disaster and humanitarian assistance, because DoD Components did not maintain documentation to support all amounts expended past the 6 years and 3 months required by the DoD FMR.

Domestic Projects. We did not find any instances where DERF was used for domestic disaster or emergency relief assistance since it was established in November 1989.

Overseas Disaster and Humanitarian Relief Projects. From its inception in 1989 through 2006, DERF has been used for overseas disaster and humanitarian assistance projects. According to a DFAS 1002 report dated May 31, 2007, more than \$384 million has been used for these projects. Because the total amount expended on all DERF-funded projects (\$384 million) is almost equal to the total amount in DERF (an initial \$100 million plus the \$299.3 million provided by Public Law 103-139), we believe that DoD Components used \$136.5 million (the \$299.3 million public law provided minus the \$162.8 million expended for the Rwanda and Cuba project) to support other DERF-funded projects. Table 1 shows the projects we reviewed.

Table 1. DERF Expended by Project Per DFAS 1002 Reports¹ (in millions)					
Project A	Amount Available for Obligations B	Amount Unobligate d C	Amount Obligated D	Unpaid Obligations E	Amount Expended F
			(B-C)		(D-E)
Bangladesh	\$6.4	\$ 1.1	\$ 5.3	\$ 0	\$ 5.3
Rwanda/Cuba Refugee	163.6 ²	0.8	162.8	0	162.8 ²
Haitian Refugee	3.8	0.2	3.6	0	3.6
Humanitarian Assistance	215.0 ³	5.4	209.6	1.9	207.7 ⁴
Pakistan Earthquake Relief	6.0	0	6.0	0	6.0
Project Not Specific	<u>4.6</u>	<u>4.6</u>	<u>0</u>	<u>1.3⁵</u>	<u>(1.3)</u>
Total	\$399.4	\$12.1	\$387.3	\$3.2	\$384.1

¹Differences between the DFAS SF 133 and DFAS SF 1002 reports were due to rounding.
²Public Law 103-139 provided \$299.3 million for this project. DoD Components used the difference to support other disaster and humanitarian efforts.
³DoD Components received \$23.5 million direct funding for this project but used other DERF funds to support this project.
⁴Does not include the Army negative disbursement of \$198,000.
⁵Net of Air Force negative unpaid obligation of \$15,000 for Rwanda/Cuba refugee and Humanitarian relief projects.

However, we were unable to determine whether the amounts expended were all related to the disaster and humanitarian assistance, because DoD Components did not maintain documentation to support amounts expended past the 6 years and 3 months required by the DoD FMR.

Bangladesh Disaster Relief Project. In 1991, the Army was the executive agent for DoD domestic assistance to civil authorities for manmade and natural disasters. On August 26, 1991, the Army requested, as executive agent, that the Deputy Comptroller of Defense (Program and Budget) use \$6.4 million of DERF to reimburse the Army for expenses incurred for disaster assistance in Bangladesh (Operation Sea Angel.) On September 5, 1991, the DoD Office of General Counsel (OGC) maintained that while the expenses were incurred prior to the President's authorization, they appeared to be within the purposes of DERF. According to the DoD OGC, the determination to use DERF was necessary before a formal request for reimbursement could be received from another Federal agency, and, in this case, "the services were provided under the circumstances of Department of State responsibility requiring reimbursement from the Department of State."

On September 11, 1991, the USD(C)/CFO approved the use of DERF to reimburse the Army for expenses incurred for Operation Sea Angel. According to the DFAS 1002 report, \$1.1 million of the \$6.4 million was classified as "unobligated," which means that the amount expended for Operation Sea Angel was therefore about \$5.3 million. About \$4,000 of this amount was classified as unpaid obligations, which means that the amount expended for Operation Sea Angel was about \$5.3 million. Based on our review of the DERF account transaction history, we believe that DoD did not bill DoS for reimbursement for the costs incurred for this project. We also did not find any evidence that DoS requested DoD assistance after DoD had provided the assistance.

In 1991, the Army was not the DoD executive agent for overseas DoD disaster relief and emergency assistance and therefore could not request the use of DERF for Operation Sea Angel, as stated in the Army's request for reimbursement. According to DoD Directive 5100.46, the DoD Assistant Secretary of Defense (International Security Affairs) is responsible for designating the DoD Coordinator for Foreign Disaster Relief and the DoD point of contact with DoS for coordinating DoD disaster relief operations. The directive also stated that DoD Components would participate in foreign disaster relief operations only after DoS has determined that foreign disaster relief should be provided. DoS would then send a request to the DoD coordinator for foreign disaster operations. We did not see any coordination between the DoD Coordinator for Foreign Disaster Relief and DoS. If Operation Sea Angel was requested by DoS or was executed in anticipation of a reimbursable request from DoS, DoD should have requested reimbursement of the \$5.3 million.

Rwanda and Cuba Migrant Refugee Project. Public Law 103-335 provided \$299.3 million to reimburse DoD Components for costs incurred for emergency relief efforts in Rwanda and for emergency migrant processing and safe-haven costs in or around Cuba. This amount was accounted for in DERF.

USD(C)/CFO allocated the funds for this project to the Washington Headquarters Services (WHS), which in turn suballocated \$93.2 million to the Army, more than \$131.1 million to Navy, and more than \$70.6 million to the Air Force, for a total of about \$294.9 million. This amount is \$4.4 million less than the amount provided by the public law. Of the \$294.9 million, the DFAS 1002 report indicates that the DoD Components expended about \$162.8 million for the project.

Haitian Refugee Project. In 1994, WHS suballocated about \$3.8 million to the Army, more than \$54.6 million to the Navy, and \$5.6 million to the Air Force for the Haitian Refugee Project, for a total of more than \$64 million. The DFAS 1002 report indicates that the Army expended all but \$0.2 million of the \$3.8 million it received for the project. We believe that the \$0.2 million is excess funding authority that the Army needs to return to the USD(C)/CFO. In addition, because the total amount expended on the Haitian project was about \$3.6 million, we believe that the Navy and the Air Force used their funding for the Haitian project on other disaster and humanitarian projects. We were unable to determine whether DoS requested DoD assistance for this project. However, the Deputy SECDEF approved the use of DERF for the project in May 1994 under Public Law 103-139. Under this law, DERF could be used if the SECDEF determined that DoD assistance was necessary. We did not find any evidence that DoD billed DoS for reimbursement for the amount expended for this project.

Humanitarian Assistance. In 1994, WHS suballocated about \$10.8 million to the Army, about \$0.2 million to the Navy, and about \$2 million to the Air Force for disaster and humanitarian assistance for 9 overseas projects: Columbia Earthquake Disaster Assistance, Bosnia/Herzegovina Relief, Croatia Relief, Liberia Relief, Kurdish Relief, Sarajevo Market Place Victims Assistance, India Earthquake Assistance, Honduras Earthquake Relief, and Papua New Guinea Relief Assistance. Documentation was not available for us to break the costs down by project. As a result, we were unable to determine the amount expended on each of the nine projects. WHS also allocated about an additional \$10.5 million to the Defense Logistics Agency (DLA) for storage and stockpiling daily rations for humanitarian assistance. The total amount funded for the humanitarian assistance projects was about \$23.5 million.

Our analysis of the DFAS 1002 report indicates that the Components expended more than \$207.6 million for the 9 projects and for storage and stockpiling daily rations for the humanitarian assistance. This amount is more than the \$23.5 million that WHS suballocated to the Components. Because the Components did not maintain documentation past the 6 years and 3 months required by the DoD FMR, we were unable to verify the source of funding for the excess amounts expended for the projects. However, because the total amount spent for all DERF-funded projects (about \$384 million) is almost equal to the total amount in DERF (initial \$100 million plus the \$299.3 million), we believe that the Components used funds earmarked for the Haitian refugee and the Rwanda/Cuba projects to supplement their funding for humanitarian assistance. However, we do not consider the use of the excess funding to supplement the humanitarian assistance to be a potential violation of the Antideficiency Act. DoD internal memoranda indicate that DoS requested assistance for seven of the nine humanitarian assistance projects and were approved by the appropriate DoD

officials. However, based on our review of DFAS reports, we believe that DERF was not reimbursed, because the Components and the DoD Coordinator for Overseas Disaster did not bill DoS for reimbursement, as required by DoD Directive 5100.46 and the DoD FMR.

Pakistan Earthquake Relief Assistance. DoS requested the DoD assistance for this project “on a nonreimbursable basis.” In an October 2005 memorandum to DoD Components, the Director of Operations, USD(C)/CFO Program & Budget, stated that the Pakistan humanitarian assistance and disaster relief should be financed from Overseas Humanitarian, Disaster, and Civic Aid (OHDACA) funds administered by the Defense Security Cooperation Agency (DSCA), and that charges to other appropriations must be reimbursed from OHDACA funds. Accordingly, DoD overseas humanitarian assistance and disaster relief activities were funded by an OHDACA appropriation administered by DSCA. However, in November 2005, the Acting Deputy SECDEF approved the use of up to \$18 million in DERF for earthquake relief assistance in Pakistan. The funds were to be administered by the DSCA. DSCA officials told us that they requested DERF funds because they ran out of OHDACA funds. (We did not attempt to validate this; auditing OHDACA funds expended for overseas disaster assistance was outside the scope of our review).

In December 2005, the USD(C)/CFO allocated more than \$10.5 million to DSCA for the Pakistan relief project. DSCA provided the DERF accounting line to the U.S. Transportation Command (USTRANSCOM) and asked USTRANSCOM to bill all expenses to DERF. USTRANSCOM expended all the funding. DSCA officials told us in an e-mail message that after their review and discussion with USTRANSCOM, they determined that USTRANSCOM had used wrong billing rates, which resulted in an overbilling of more than \$ 4.4 million. They stated that in September 2006, USTRANSCOM corrected the amount billed and had actually expended \$6 million. DSCA also told us that they asked USD(C)/CFO to withdraw the excess funding authority of \$ 4.4 million it had received. However, the DFAS 1002 report indicated that USD(C)/CFO did not withdraw the excess funding authority from DSCA. Because the DoS request was on a nonreimbursable basis and DoD accepted and funded the request with DERF, we do not believe that DERF was used in anticipation of a reimbursable request from DoS, and we do not believe that DoD could have billed DoS for this reimbursement.

DERF as a Reimbursable Account

According to the DoD FMR, volume 1, December 2001, obligation authority is the budget authority provided by law to enter into obligations that will result in immediate or future outlays of Government funds. An unobligated balance is the difference between the obligation authority available and the total obligations incurred. DoD FMR volume 3, chapter 11, January 2001, defines unliquidated obligations as the total obligations that have not been paid. Chapter 10, December 2000, states that negative unliquidated obligations occur when the total amount paid for a valid obligation exceeds the amount obligated.

Public Law 101-165 established DERF to reimburse DoD Components for the use of their resources in providing disaster assistance. According to DoD regulations, DERF was intended to reimburse DoD Components providing disaster and emergency relief assistance only after the Components have first used their own resources in anticipation of reimbursable requests from other Federal agencies and from state or local governments. However, for the relief projects we reviewed, USD(C)/CFO reimbursed the Army for costs incurred for only one project. For the other projects, USD(C)/CFO provided direct obligation authority to WHS and the DSCA, who then gave that direct obligation authority to the DoD Components. Table 2 shows the relief projects we reviewed, along with their obligation authority.

Table 2.
Obligation Authority by DoD Component and Project
(in millions)

<u>Relief Project</u>	<u>Executing Component</u>	<u>Funds Issued by</u>	<u>Total Obligation Authority</u>
Bangladesh Disaster Relief	Army	USD(C)/CFO	\$ 6.4
Haitian Refugee Effort	Army	WHS	3.8
	Navy	WHS	54.6
	Air Force	WHS	5.6
Sub Total			64.0
Rwanda Refugee/Cuba Migrant Relief	Army	WHS	93.2
	Navy	WHS	131.1
	Air Force	WHS	70.6
Sub Total			294.9
Humanitarian Assistance*	Army	WHS	10.8
	Navy	WHS	0.2
	Air Force	WHS	2.0
	DLA	WHS	10.5
Sub Total			23.5
Pakistan Earthquake	USTRANSCOM	DSCA	10.5
Total			\$399.3

*The humanitarian assistance includes nine individual projects: Columbia Earthquake Disaster Assistance, Bosnia/Herzegovina Relief, Croatia Relief, Liberia Relief, Kurdish Relief, Sarajevo Market Place Victims Assistance, India Earthquake Assistance, Honduras Earthquake Relief, and Papua New Guinea Relief Assistance, and for storage and stockpiling daily rations for humanitarian assistance. Documentation was not available for us to break the costs down the by project.

Having direct obligation authority for DERF means that the DoD Components did not have to use their own resources before requesting reimbursement from DERF. Although direct obligation authority provided the least adverse impact on the mission of DoD Components (because they did not have to use their own resources to finance disaster and humanitarian relief assistance), it does not comply with the requirements of Public Law 101-165 and DoD policies.

Unobligated and Unpaid Obligations

The funding documents requested that the DoD Components identify any excess funding and inform the Office of the Deputy Assistant Secretary of Defense for Humanitarian and Refugee Affairs. However, some of the Components did not manage the obligation authority efficiently enough to ensure that excess funds were identified. We consider an obligation authority to be excess if it has not been obligated for at least 2 years or it has been obligated but has not been disbursed for 2 years. Table 3 shows the amounts from our review of the DFAS “Report on Budget Execution,” (DFAS SF 133), May 31, 2007, that we consider excess direct obligation authority.*

Table 3. Excess Direct Obligation Authority By DoD Components and Appropriation Code Per DFAS Reports (in millions)				
Component	Appropriation Limit*	Unobligated	Unpaid Obligation	Total
Army	.0100	\$ 1.1	\$ 0	\$ 1.1
WHS	.2000	3.3	0	3.3
Army	.2001	1.8	1.1	2.9
Air Force	.2002	0.4	0	0.4
Navy	.2004	0.2	1.9	2.1
DLA	.2051	0.9	0	0.9
DSCA	.6800	4.4	0	4.4
USD(C)/CFO	.9999	<u>0</u>	<u>0.3</u>	<u>0.3</u>
Total		\$12.1	\$3.3	\$15.4
* Appropriation code is preceded by 97X4965				

* We compared the DFAS SF 133 Report to the DFAS Appropriation Status Report (DFAS 1002 Report) and arrived at the same conclusion. Differences were due to rounding.

For appropriations that are available for an indefinite period, the DoD FMR requires that obligated and unobligated balances be canceled when no disbursements have been made for a period of 2 years and when the President, the SECDEF, or his designee determines that the purpose for which the appropriation was made has been carried out. Because they were given direct obligation authority to DERF, the Components did not review their obligations to ensure that the obligations were valid or deobligated. The Components did not manage DERF efficiently to ensure that excess funding authority was identified and returned to USD(C)/CFO. The Components have about \$15.4 million in unobligated funds or unpaid obligations. Specifically, about \$12.1 million in obligation authority has remained “unobligated” and about another \$3.3 million has been classified as “unpaid obligations” for more than 10 years. As shown in Table 3, approximately \$1.1 million in “unobligated” and “unpaid obligations” for the Army (limit .0100) are from the funding authority that USD(C)/CFO provided to the Army for disaster assistance in Bangladesh in 1991, more than 16 years ago. Also, the Army’s “unobligated” and “unpaid obligations” of about \$2.9 million (limit .2001), the Air Force’s “unobligated” and “unpaid obligation” of about \$0.4 million (limit .2002), and the Navy’s “unobligated” and “unpaid obligation” of about \$2.1 million (limit .2004) in the table are all from the obligation authorities provided to them for refugee assistance in 1994, more than 13 years ago. In addition, two Components had abnormal account balances of negative unpaid obligations.

Reimbursement

DoD OGC has maintained that DoD should have billed DoS for its Bangladesh disaster assistance expenses. We were unable to determine whether DoS requested DoD assistance for the Haitian refugee project. However, the Deputy SECDEF approved the use of DERF for the project under Public Law 103-139. According to DoD internal memoranda, DoS requested DoD assistance for seven of the nine humanitarian assistance projects. (Documentation did not exist for the other two projects.) Funding for all nine projects was approved by DoD officials. In addition to the \$299.3 million provided by Public Law 103-335, DoD Components used \$78.7 million of the DERF initial capitalized amount of \$100 million for all 11 projects, and based on our review of the DERF account transaction history, we believe that DoD did not bill DoS for reimbursement for any of them. We believe that DoD used direct obligation authority for DERF because it had the fewest adverse effects on DoD Component mission accomplishment. In addition, we believe that because of their direct obligation authority for DERF, the Components did not have any reason to bill other organizations for emergency relief costs incurred. They did not prepare and submit reimbursable billings to the DoD Coordinator for Foreign Disaster Relief for transmission to DoS, as required by DoD 5100.46, because the funding and obligation authority they received did not tell them that they had to bill DoS for reimbursement.

For example, WHS suballocated the funding for disaster and humanitarian assistance to the DoD Components. One WHS official told us in an e-mail message that “a reimbursable authority is needed in order to bill, and at the time

there was no reimbursable authority for this account. More importantly, we can't think of any reason for the DERF to be used for a reimbursable purpose."

DERF was initially funded at \$100 million and as of May 31, 2007, DERF had an account balance of about \$15.3 million, including unpaid obligations that needed to be deobligated. This means that DoD Components used more than \$84.7 million for the overseas disaster and humanitarian assistance. Of the \$84.7 million, about \$6 million was used for the Pakistan earthquake relief assistance on a nonreimbursable basis. DoD therefore should have billed DoS for the \$78.7 million expended on the overseas disaster and humanitarian assistance. Table 4 shows the amounts by project that we believe DoD should have billed DoS for reimbursement. The amount provided by Public 103-335 was not part of the original DERF capitalized amount of \$100 million and therefore not reimbursable. Because DoD Components did not maintain documentation beyond the required 6 and 3 months, we do not believe that DoD can recover this amount from DoS. DoD therefore must find other sources of funding to bring DERF to the initial funded amount of \$100 million.

**Table 4.
DERF Expenditures Reimbursable by the Department of State
(in millions)**

Project	Amount Expended
Bangladesh	\$ 5.3
Haitian Refugee	3.6
Humanitarian	207.6
Amount Provided by Public Law 103-335 for Rwanda/Cuba	(136.5)
Project Not Specific	(1.3)
Total	\$78.7

Use of Funds Provided by Public Law 103-335

Public Law 103-335 provided \$299.3 million to DERF and specifically stated that it was to be used for DoD costs incurred for emergency relief efforts in Rwanda and for emergency migrant processing and safe-haven costs in or around Cuba. Added to the initial capitalized amount, the total amount in DERF was \$399.3 million. As shown in Table 1, DoD Components used about \$384.1 million on all the overseas disaster and humanitarian assistance. Of this amount, only \$162.8 million was used for the Rwanda relief efforts and for the emergency migrant processing and safe-haven costs around Cuba. Because the total amount expended on all DERF-funded projects (\$384.1 million) is almost equal to the total amount in DERF (initial \$100 million plus the \$299.3 million

provided by Public Law 103-139), we believe that DoD Components used \$136.5 million (\$299.3 million provided by the public law minus the \$162.8 million expended for the Rwanda and Cuba project) to support other DERF-funded projects. We do not consider this as a potential violation of the Antideficiency Act.

Adequacy of DERF Funding

Based on the current account balance, DERF is not adequately funded to meet future demand for DoD involvement in disaster and emergency relief efforts. We make this conclusion based on comparing the current DERF account balance of \$15.3 million to the initial capitalized amount of \$100 million. Table 5 shows the reconciliation of our audit results to the DFAS 1002 report. Public Law 103-335 added \$299.3 million to DERF. However, the \$299.3 million was restricted for emergency relief efforts in Rwanda and for emergency migrant processing and safe-haven costs in or around Cuba. Accordingly, if used as a reimbursable account, DERF should have a balance of \$100 million in the account.

Based on our reconciliation, we concluded that \$84.7 million is required to bring DERF up to its initial capital balance of \$100 million. If DoD had billed DoS for the \$78.7 million expended on overseas disaster and humanitarian assistance, only the \$6 million expended on the Pakistan earthquake relief project on a nonreimbursable basis would be needed to replenish the DERF account. Also, because DoD overseas disaster and humanitarian assistance is funded with the OHDACA appropriation, which is administered by DSCA on nonreimbursable basis, we believe that DERF, once it is fully funded, should only be used for overseas emergency assistance as a last resort.

Table 5
DERF Account Balance as of May 31, 2007
Reconciliation of Audit Results to DFAS Report
(in millions)

<u>Per Audit.</u>		
Appropriated Fund:	\$100.0	
Public Law 101-165	<u>299.3^a</u>	
Public Law 103-335		
Total Appropriated Funds		399.3
Less Amounts Expended for:		
Bangladesh Disaster Relief Project	5.3	
Rwanda Refugee/Cuba Migrant Relief Project	162.8	
Haitian Refugee Relief Project	3.6	
Disaster and Humanitarian Relief Project	207.6	
Pakistan Earthquake Relief Project	6.0	
Project Not Specific	<u>(1.3)</u>	
Total amounts Expended		<u>384.0</u>
DERF Account Balance Per Audit		<u>\$ 15.3^b</u>
<u>Per DFAS 1002 Report</u>		
Unobligated		12.1
Unpaid Obligations		<u>3.3</u>
DERF Account Balance Per DFAS 1002 Report		<u>\$ 15.4^b</u>

^aDFAS 1002 report shows \$299.2 million as available for obligations

^bDifferences due to rounding.

Other Matters

Use of DERF Prior to Public Law 103-139. Public Law 103-139 amended Public Law 101-165 and stated that when the SECDEF determines that immediate DoD assistance is necessary, DERF could be used in addition to other DoD funds to provide the assistance. Public Law 103-165 did not limit the use of DERF to domestic disasters only. In response to our request for information on Operation Sea Angel, an Army official familiar with the project told us in an e-mail message that “it was the first use of the Emergency Response Fund and as such the usage was improper since the fund was established to cover the first response to U.S. natural disasters.” Section E2.1.10 of DoD Directive 3025.1 states that DERF may be used for foreign disaster assistance. We therefore believe that the use of DERF for Operation Sea Angel was proper.

Use of DERF as Nonreimbursable Account. Public Law 103-139 amended DERF to be used in addition to the provision of Public Law 101-165, and when the SECDEF determines that DoD assistance is necessary. We believe that this public law did not amend the intent of Public Law 101-165 for DERF to be used

as a reimbursable account. We therefore believe that DERF was not used as a reimbursable account when about \$6 million was used for the Pakistan disaster assistance on a nonreimbursable request from DoS.

Limitation on the use of DERF for Overseas Assistance. According to the DoD 3025.1-M, following the amendment of DERF by Public Law 103-139, the SECDEF determined that DERF funds up to \$50 million may be used for foreign disaster assistance and that the remainder of the funds could be used for domestic disaster and civil emergency assistance. Since DERF was established, DoD Components have used \$84.7 million of its initial \$100 million of funding to fund foreign disaster assistance. This amount exceeds the \$50 million threshold identified in DoD 3025.1-M. We believe that because of the establishment of OHDACA, the USD(C)/CFO should specify when DERF may be used for overseas disaster and humanitarian assistance.

Recommendations, Management Comments, and Audit Response

1. We recommend that the Under Secretary of Defense (Comptroller)/Chief Financial Officer:

A. Require the DoD Components to deobligate all unpaid obligations more than 2 years old and withdraw all excess DERF funding that authorities provided to the Components.

B. Revise chapter 6 of the DoD Financial Management Regulation to provide guidance and assign responsibilities for the use of the Defense Emergency Response Fund for overseas disaster and humanitarian assistance.

Management Comments. The Under Secretary of Defense (Comptroller)/Chief Financial Officer agreed with both parts of the recommendation and stated that DoD Components have been provided with guidance to recoup, where possible, unliquidated obligations. Also, the DoD FMR is scheduled for update in the summer of 2008.

Audit Response. The Under Secretary of Defense (Comptroller)/Chief Financial Officer comments are responsive and no additional comments are required.

2. We recommend that the Assistant Secretary of Defense for Homeland Defense and America's Security Affairs inform the Deputy Comptroller (Program/Budget) of the need for additional funding to sustain DERF.

3. We recommend that the Under Secretary of Defense (Comptroller)/Chief Financial Officer and the Assistant Secretary of Defense for Homeland Defense and America's Security Affairs jointly study the need for DERF:

A. And, if needed, obtain additional funding to sustain it.

B. If not needed, obtain other budget authority for increasing DoD disaster and humanitarian assistance.

Management Comments. The Under Secretary of Defense (Comptroller)/Chief Financial Officer partially concurred with Recommendations 2 and 3 and stated that additional funds were included in the President's Budget Requests for FY 2008 and FY 2009 to ensure that DoD had adequate resources for its emergency and disaster relief efforts. In addition, in FY 2008, Congress expanded the Combatant Commander Initiative Fund to be used for unanticipated humanitarian relief and reconstruction assistance, particularly in foreign countries where the Armed Forces are engaged in contingency operations.

Audit Response. The Under Secretary of Defense (Comptroller)/Chief Financial Officer comments are responsive and no additional comments are required. As a result of the management comments, we revised Recommendation 3 to clarify our intentions. The Assistant Secretary of Defense for Homeland Defense and America's Security Affairs did not provide us with direct comments on the recommendations. Personnel from the Office of the Assistant Secretary of Defense for Homeland and America's Security Affairs told us that they coordinated their response with the Office of the Under Secretary of Defense (Comptroller)/Chief Financial Officer. We confirmed the statement with personnel of the Office of the Under Secretary of Defense (Comptroller)/Chief Financial Officer who told us that they considered those comments in preparing the comments they provided to us. We therefore consider the Under Secretary of Defense (Comptroller)/Chief Financial Officer comments to be inclusive of the Assistant Secretary of Defense for Homeland Defense and America's Security Affairs comments. No additional comments are required from the Assistant Secretary of Defense for Homeland Defense and America's Security Affairs.

Other Comments. The Under Secretary of Defense (Comptroller)/Chief Financial Officer comments stated that "reimbursement to the DERF is allowed and anticipated but is not required by law." Also, for Operation Sea Angel, DoD made the determination that immediate response to the natural disaster was necessary and that the action was taken under circumstance requiring reimbursement from DoS. The Under Secretary added that reimbursement could have only occurred if DoS had requested DoD assistance after the fact but that reimbursement from DoS was unlikely since there is no documentation supporting a DoS request.

Audit Response. As stated in the report, Public Law 101-165 states that upon the determination by the SECDEF that DoD action is necessary, DERF could be used "before a formal request for assistance on a reimbursable basis is received." Reimbursements received are to be deposited into the DERF account. We have stated in the report that we did not see any coordination between DoD and the DoS on Operation Sea Angel. We have also stated in the report that if Operation Sea Angel was requested by DoS or if DoD provided the disaster assistance in anticipation of reimbursable request from the DoS (as also stated in the comments), DoD should have requested reimbursement from the DoS.

Appendix A. Scope and Methodology

We conducted this financial-related audit from May 2007 through December 2007 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We performed this audit to determine whether DERF was used for its intended purposes and whether it is adequately funded to respond national disasters. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit.

We performed the audit by requesting data and conducting interviews with officials and operating personnel at the Components involved in DoD disaster and emergency assistance. We reviewed funding documents to determine the funding authority provided to the DoD Components. We compared the DFAS Appropriation Status report dated May 31, 2007 (DFAS 1002 report) to the DFAS Budget Execution report dated May 31, 2007 (DFAS 133 report) to determine the amounts available for obligation, amounts obligated, and unpaid obligations at the Components we reviewed. We computed the amount expended for each project by subtracting unobligated amounts and unpaid obligations from the total funding authority provided for each project. We were unable to trace the amounts expended to source documents to determine whether the expenditures were related to the projects for which the funds were allocated. The Components did not maintain supporting documentation beyond the DoD FMR-mandated record retention period of 6 years and 3 months. The details of our review are provided below.

Bangladesh Disaster Relief. The Department of the Army provided disaster relief assistance to Bangladesh in 1991. Army received about \$6.4 million and expended about \$5.3 million for the relief assistance. We obtained internal Army documentation and documentation between the Army and the USD(C)/CFO requesting the transfer of funds to reimburse the Army for expenses incurred for the Bangladesh earthquake relief project. We reviewed DoD Office of General Counsel opinion on the use and reimbursement of funds expended on the project. We also reviewed DFAS 1002 and DFAS 133 reports to determine the amounts that Army expended for the relief efforts and the status of any other unused DERF funds.

Rwanda and Cuba Refugee and Migrant Processing. In 1994 and 1995, WHS suballocated \$93.2 million in DERF funds to Army, more than \$131.1 million to Navy, and about \$70.6 million to Air Force, for a total of about \$294.9 million. We verified these amounts to funding documents. Collectively, the Components expended about \$162.8 million of the \$294.9 million. We were unable to verify the amounts expended to source documentation to determine whether the expenditures were related to the project, because the Components did not maintain records past the DoD FMR-required 6 years and 3 months. We reviewed DFAS 1002 and DFAS 133 reports to determine the amounts that the Components expended for the projects and to determine the status of any unused funds.

Haitian Refugee Relief. In 1994, WHS suballocated about \$3.8 million to Army, about \$54.6 million to Navy, and \$5.6 million to Air Force for the Haitian refugee project for a total of about \$64 million. We compared the amounts funded to fund authorization documents. We reviewed DFAS 1002 and DFAS 133 reports to determine the amounts that the Components expended for the projects and to determine the status of any unused funds. However, we were unable to trace the amounts to source documents because the documentation retention period had expired at the time of our audit.

Humanitarian Relief Effort. In 1994, WHS suballocated about \$10.8 million to Army, about \$0.2 million to Navy, about \$2 million to Air Force, and about \$10.5 million to DLA for disaster and humanitarian assistance for 9 overseas projects for a total of about \$23.5 million. The projects were Columbia Earthquake Disaster Assistance, Bosnia/Herzegovina Relief Effort, Croatia Relief Effort, Liberia Relief Effort, Kurdish Relief Effort, Sarajevo Market Place Victims Assistance, India Earthquake Assistance, Honduras Earthquake Relief Effort, and Papua New Guinea Relief Efforts and also for storage and stockpiling daily rations for the humanitarian assistance. However, the Components expended about \$207.6 million for all the humanitarian assistance projects. We verified the amounts funded against funding authorization documents. We computed the amounts expended using the DFAS 1002 report and compared the amount computed to the DFAS 133 report to determine the status of any unused funds. We were unable to trace the amounts to source documents because the documentation retention period had expired at the time of our audit.

Pakistan Earthquake Relief. In FY 2006, DSCA received about \$10.5 million from the USD(C)/CFO for the Pakistan earthquake relief project and provided funding authority to USTRANSCOM. USTRANSCOM expended about \$6 million on this project. We compared the funding authority to funding documents. We obtained a transaction history of 148 transactions from USTRANSCOM valued at \$6 million and verified all the transactions to vouchers and other billing documents to determine the accuracy of the transaction history and amounts billed. We compared the aircraft billing rates used for the billing to the Air Mobility Command-approved aircraft billing rates to determine the USTRANSCOM air transportation rates used in the billings and the accuracy of the amounts billed.

Use of Computer-Processed Data. We relied on computer-processed data provided to us by DFAS to determine the amounts that DoD Components spent on DoD disaster and emergency relief assistance. We did not evaluate the general and application controls for the systems. Not performing the general and application control evaluations of the systems did not affect the results and conclusions of our audit.

Use of Technical Assistance. We did not use any technical assistance in conducting our audit. DoD OIG Office of General Counsel reviewed a draft of this report.

Government Accountability Office High-Risk Area. The Government Accountability Office has identified several high-risk areas in DoD. This report provides coverage of one aspect of the financial management high-risk area.

Prior Coverage

No prior coverage has been conducted on DERF during the last 5 years.

Appendix B. Report Distribution

Under Secretary of Defense (Policy)

Assistant Secretary of Defense (Special Operations & Low-Intensity Conflict)

Assistant Secretary of Defense (International Security Affairs)

Under Secretary of Defense (Comptroller)/Chief Financial Officer

Deputy Chief Financial Officer

Deputy Comptroller (Program/Budget)

Assistant Secretary of Defense for Homeland Defense and America's Security Affairs

Director, Program Analysis and Evaluation

Joint Staff

Director, Joint Staff

Department of the Army

Assistant Secretary of the Army (Financial Management and Comptroller)

Auditor General, Department of the Army

Department of the Navy

Naval Inspector General

Auditor General, Department of the Navy

Department of the Air Force

Assistant Secretary of the Air Force (Financial Management and Comptroller)

Auditor General, Department of the Air Force

Combatant Commands

Commander, U.S. Northern Command

Commander, U.S. Transportation Command

Commander, U.S. Special Operations Command

Other Defense Organizations

Director, Defense Finance and Accounting Service

Director, Defense Logistics Agency

Director, Defense Security Cooperation Agency

Director, Washington Headquarters Services

Non-Defense Federal Organization

Office of Management and Budget

Congressional Committees and Subcommittees, Chairman and Ranking Minority Member

Senate Committee on Appropriations
Senate Subcommittee on Defense, Committee on Appropriations
Senate Committee on Armed Services
Senate Committee on Homeland Security and Governmental Affairs
House Committee on Appropriations
House Subcommittee on Defense, Committee on Appropriations
House Committee on Armed Services
House Committee on Oversight and Government Reform
House Subcommittee on Government Management, Organization, and Procurement,
Committee on Oversight and Government Reform
House Subcommittee on National Security and Foreign Affairs,
Committee on Oversight and Government Reform

Under Secretary of Defense (Comptroller/Chief Financial Officer) Comments



COMPTROLLER

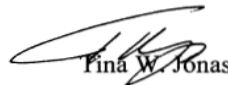
UNDER SECRETARY OF DEFENSE
1100 DEFENSE PENTAGON
WASHINGTON, DC 20301-1100

APR 17 2008

MEMORANDUM FOR OFFICE OF THE INSPECTOR GENERAL, DEPARTMENT
OF DEFENSE

SUBJECT: Management Response to Report on the Defense Emergency Response Fund
(Project No. D2007-D000FE-0105.000)

Thank you for the opportunity to provide comments on the subject report. I agree with recommendation one of the report and initiated corrective action accordingly. For recommendations two and three, the Department partially concurs. The FY 2009 President's Budget Request already includes an additional \$50 million for disaster and humanitarian relief assistance. Enclosed are additional comments on the report. My point of contact for this information is Ms. Edna Thomas, (703) 697-1610.


Tina W. Jonas

Enclosure:
As stated



Proposed Draft Report
Project No. D2007-D000FE-0105.000
Audit of the Defense Emergency Response Fund (DERF)
Consolidated USD(C) and OUSD(P) (Homeland Defense) Comments

Recommendation 1. We recommend that the Under Secretary of Defense (Comptroller)/Chief Financial Officer:

- A. Require the DoD Components to deobligate all unpaid obligations more than two years old and withdraw all excess DERF funding that authorities provided to the Components.
- B. Revise Chapter 6 of the DoD Financial Management Regulation to provide guidance and assign responsibilities for the use of the Defense Emergency Response Fund for overseas disaster and humanitarian assistance.

DoD Response:

We agree with both parts of the recommendation. Guidance has been provided to DoD components to recoup, where possible, unliquidated obligations. The FMR is scheduled for update in the summer of 2008.

Recommendation 2. We recommend that the Assistant Secretary of Defense for Homeland Defense and America's Security Affairs inform the Deputy Comptroller (Program/Budget) of the need for additional funding to sustain DERF.

Recommendation 3. We recommend that the Under Secretary of Defense (Comptroller)/Chief Financial Officer and the Assistant Secretary of Homeland Defense and America's Security Affairs jointly study the need for DERF and, if needed, obtain additional funding to sustain it.

Revised

DoD Response:

We partially concur with recommendations 2 and 3. The Department has several programs that fund emergency and disaster relief efforts. In both the FY 2008 and 2009 President's Budget Requests, additional funds were included to ensure the Department had adequate resources for these efforts. The FY 2008 President's Budget Request included \$40 million in the Overseas Humanitarian, Disaster and Civic Aid (OHDACA) program to be available solely for foreign disaster relief and response activities. In addition, the FY 2009 President's Budget Request includes \$40 million to be available for the same purpose. In FY 2008, the Congress expanded the Combatant Commander Initiative Fund (CCIF) to authorize the use of the CCIF for unanticipated humanitarian relief and reconstruction assistance, particularly in a foreign country where the armed forces are engaged in a contingency operation. The FY 2009 President's Budget Request includes \$50 million for these efforts.

The Department will continue to ensure that it requests adequate funds for disaster or emergency assistance.

Other Comments

Use of DERF Prior to Public Law 103-139. Public Law 103-165 did not limit the use of DERF to domestic disasters only. In response to our request for information, an Army official familiar with the project told us in an e-mail message that “it was the first use of the Emergency Response Fund and as such the usage was improper since the fund was established to cover the first response to U.S. disasters.” Section E2.1.10 of DoD Directive 3025.1 states that DERF may be used for foreign disaster assistance.

Revised

DoD Response:

The intent of this paragraph is unclear. It appears the DoDIG agrees that DERF could be used for foreign disaster assistance but references an email that contains an erroneous interpretation of the law.

P.L. 103-165 states that DERF is available for providing reimbursement to DoD appropriations for supplies and services provided in anticipation of requests from other Federal Departments and agencies and State and local governments for assistance on a reimbursable basis to respond to natural or manmade disasters. While the intent of the Fund was for domestic use, the statute did not limit the use of the Fund to US natural disasters.

Use of DERF as Nonreimbursable Account. Public Law 101-139 amended DERF to be used in addition to the provision in Public Law 101-165, and when the SECDEF determines that DoD assistance is necessary. We believe that this public law did not amend the intent of Public Law 101-165 for DERF to be used as a reimbursable account. We therefore believe that DERF was not used as it was intended by Public Law 101-165 when about \$6 million was used for the Pakistan disaster assistance on a nonreimbursable request from DoS.

DoD Response:

A general comment regarding the use of the DERF is that reimbursement to the DERF is allowed and anticipated but is not required by law.

Reimbursements from the Department of State to the DERF for immediate actions the Department took to respond to a natural disaster need to be considered separately for actions taken prior to the enactment of P.L. 103-139 and those actions taken after.

Prior to P.L. 103-139

Assistance to the People of Bangladesh (Operation Sea Angel): The DoD made the determination that immediate action was necessary to respond to a natural disaster and that the action was taken under circumstances requiring reimbursement from the Department of State (DoS).

Reimbursement to DERF from DoS can occur only if DoS issued a request to DoD, after the fact, to respond to the natural disaster. In addition, the DoS must have authorization to reimburse DoD. The Department does not have any documentation indicating DoS requested the support and agreed to pay.

Technically, the Department could request reimbursement to the DERF from DoS for Operation Sea Angel; however, reimbursement from DoS is unlikely since no supporting documentation reflects a DoS request to pay.

After P.L. 103-139

P.L. 103-139 gave authority to use DERF for response to overseas disasters and not receive reimbursements. Therefore, in the absence of a reimbursable request from DoS, there is no legal basis for requesting reimbursement from DoS for DoD response to overseas natural or manmade disasters after enactment of P.L. 103-139.

Team Members

The Department of Defense Office of the Deputy Inspector General for Auditing, Defense Financial Auditing Service prepared this report. Personnel of the Department of Defense Office of Inspector General who contributed to the report are listed below.

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